

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

V.

CRIMINAL No: 00-10334 RWZ

Anthony Ivery

ORDER AMENDING JUDGEMENT IN A CRIMINAL CASE

Pursuant to 28 U.S.C. & 2255 to Vacate Sentence, Set Aside, or Correct Sentence by person in Federal Custody to revise judgement to reflect appropriate measures sentence previously imposed on one thru count two. 21 U.S.C. 841(a)(1).

Defendant-Petitioner, Anthony Ivery, and the United States of America, hereby move the Court pursuant to the Amendment 657, old re-committment guideline re-adjustment controlled (U.S.S.G.) substances, established penalties for cocaine drug trafficking offenses.

Effective date November, 1, 2003 Amendment 657, to vacate the remaining 35-months of 77-months imposed sentence of count 1 and 2 under 21 U.S.C. § 841 (A)(1) Possession with Intent to Distribute and Distribution of cocaine Base in Massachusetts, April, 6 and March, 6, 2000.

1. Mr. Ivery was convicted on a not guilty plea (Transcript page 3; 17-20) of counts of Possession with Intent to Distribute and Distribution of Cocaine Base, September, 26, 2001, in violation of 21 U.S.C. § 841 (A)(1).

2. This court sentenced Mr. Ivery to a total of 77 months sentence on the (1) 21 U.S.C. § 841 (A)(1) and count (2) 21 U.S.C. § (A)(1) and a 3 years Probation there after, with a \$300.00 Special Assessment.

3. The conviction under Cocaine Drug Trafficking at the time was a result of the old guidelines

was based on the following facts.;

On or around February or March an Indictment was Issued for the conviction on Mr. Ivery for 2 counts under 21 U.S.C. § 841(A)(1), for March, 6, and April 6, of 2000.

4. The United States conclude that the facts of this case pertaining to Retroactive application of U.S. Sentencing guidelines Amendment concerning Oxycodone Offenses., Revised Federal Commission amendment, due to a change in the law, which was not present in 2000. the petitioner hereby stipulate that the appropriate relief in this case is to vacate the conviction under Cocaine, drug trafficking offense, due to a change in the law of a downward departure in the sentencing guidelines to reflect a change in the present law. the 3 year term of supervised release or to reflect three years probation of time served, revise the judgement in a Criminal case to reflect the sentence previously imposed by this court on counts one(1) and two (2) with credit for the time that defendant has already served.

The petitioner also came to a conclusion that Mr. Ivery's 77 months sentence on the two(2) counts under 21 U.S.C. § 841 (A)(1) should reflect the downward departure of time served and a three (3) year probation of time already served. 21 U.S.C. § 841(A)(1).

Wherefore, for the above stated reasons, the court should issue an order vacating Mr. Ivery's conviction under 21 U.S.C. § 841(A)(1) count one (1) and two (2) and issue a revised judgement in a criminal case reflecting the previously imposed sentence on the remaining counts of conviction.

Retroactive application of U.S. Sentencing Commission guidelines amendment concerning Oxycodone; 657, U.S.S.G..

CERTIFICATE OF SERVICE

I hereby certify served upon the office of the United States petitioner, District of Massachusetts, by mailed this 30 day of September 2009.

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Respectfully Submitted

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Case NO: 00-10334 RWZ

Date

